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>>> "Kevin Cronin" <KCronin@ALLEGANCOUNTY.ORG> 9/30/2009 3:51 PM >>>

Justices of the Michigan Supreme Court and Mr. Corbin Davis:

Ladies and Gentlemen:

This letter reflects my opposition to the proposed amendment to MCR 6.302, which would require that all discussions regarding a defendant's plea must take place in open court on the record.

This amendment is undoubtedly motivated by a genuine desire to assure that pleas are not coerced or impulsively offered, but it will be impractical to implement such a rule without exposing the Court to information which could "poison the well of judicial objectivity" and inspire motions to disqualify the participating judge.

Even if that risk does not materialize, it is likely to severely limit completely candid discussions between the parties because of a concern over intra-family or public exposure of the weaknesses of each party's case. Such a dynamic can only serve to discourage pleas and lengthen trial dockets as a general matter.

In the final analysis, the only adequate assurance for the voluntariness of a plea rests on the willingness of the trial court or appellate courts to set aside a plea when there is reasonable basis to believe coercion has occurred. Such a conclusion is unlikely to be supported by.... or definitively refuted by.... the record in open court, unless the coercion is especially flagrant or egregious. A simpler solution would be to give a defendant 3 business days after a plea is made on the record to retract it unilaterally.

Thank you for considering my views.

Judge Kevin Cronin  
48th Circuit Court for Allegan County